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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SONIA PUSEY,

Plaintiff,

BROOKLYN OFFICE

MEMORANDUM & ORDER

09-cv-4084 (ENV) (JO)

-against-

DELTA AIRLINES, INC.,

Defendant.

VITALIANO, D.J.

Pro se plaintiff Sonia Pusey (“Pusey”) is before the Court on her motion to reopen this case against defendant Delta Airlines Inc. (“Delta”). The motion is premised on plaintiff’s argument that she was not competent to enter into the settlement agreement that settled this case and, therefore, the agreement should be set aside. The Court referred the motion to Magistrate Judge James Orenstein, who had presided over the settlement conference resulting in the settlement agreement, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b). On October 27, 2011, the parties appeared before Judge Orenstein for a hearing on plaintiff’s motion. And on February 7, 2012, Judge Orenstein issued his Report and Recommendation (the “R&R”), which recommended that the motion be denied.

In reviewing a Report and Recommendation of a magistrate judge, a district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Further, a district judge is required to “determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); see also Arista Records, LLC v. Doe 3, 604 F.3d 110, 116 (2d Cir. 2010). But, where no timely objection has been made, the “district court need only satisfy itself that there is

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no clear error on the face of the record" to accept a magistrate judge's Report and Recommendation. Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

After the R&R issued, Pusey requested and received an extension of time giving her until March 9, 2012 to object to the R&R. When that date arrived, however, Pusey filed a letter stating that she "accepts" the R&R and withdraws her request to reopen. The Court construes the letter as indicating that plaintiff does not object to the R&R.

After careful review of the record, the Court finds the R&R to be correct, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R in its entirety as the opinion of the Court. Plaintiff's motion to set aside the settlement agreement and reopen the case is denied. The Court previously held this action was discontinued without costs and with prejudice, "except as to the right to reopen the action if the [then-oral] settlement is not consummated." (Dkt. No. 84.) The settlement has since been consummated and plaintiff's motion to reopen has been denied. The action is now, therefore, discontinued without costs and with prejudice, with no stated exceptions.

SO ORDERED.

Dated: Brooklyn, New York
March 14, 2012


ERIC N. VITALIANO
United States District Judge